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| 09/977,116 | 10/15/2001 | John C. Hicks | 01-03 | 1733 |

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EXAMINER

BREVARD, MAERENA W

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3727

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,116

Applicant(s)

HICKS, JOHN C.

Examiner

Maerena W. Brevard

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 October 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19, drawn to a device for conducting reconnoiter and rescue operations, classified in class 224, subclass 645.
 - II. Claim 20, drawn to a method of conducting reconnoitering and rescue operations, classified in class 82, subclass 230.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process such as water rescues.
3. During a telephone conversation with Mr. Bradley Goldizen on January 22, 2004 a provisional election was made with traverse to prosecute the invention of Species I, claims 1-19. Affirmation of this election must be made by applicant in replying to this Office action. Claim 20 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 3 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 depends from itself, but appears to be dependent from claim 2, and will be examined as such otherwise.

The dependent claims not specifically mentioned are rejected as being dependent upon a rejected base claim, since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 4-8, 10, 11, 13-15, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Price.

Price discloses a device for conducting reconnoiter and rescue operations in a darkened or burning structure, comprising:

- A rope (30);
- A bag (22) for storing the rope;
- An attachment means (16) for attaching the bag onto a firefighter's equipment;
- A quick connection means (32) affixed at the end of the rope;

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- Means for aiding the rope in playing out from the bag properly (Page 2, lines 12-14);
- The means for aiding is a snap fastener (28);
- Means for attaching (12) the bag to a firefighter's equipment;
- Means for securing (34) the rope within the bag;
- The means for attaching is a belt strap (12); and
- A means for removably securing the quick connection means (fastener, Figure 6).

Regarding claims 5 and 6, in as much structure set forth by applicant, the pocket (14) and flap is clearly capable of receiving the quick connect means (32) if so desired, since the claims do not require the pocket to be on the bag.

8. Claims 1, 4, 7, 10, 11, 13, 14, 18, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Groover.

In accordance with MPEP 2111 and 2112, Groover discloses a device (10) capable of being used for conducting reconnoiter and rescue operations in a darkened or burning structure, comprising:

- A rope (24);
- A bag (13) for storing the rope;
- An attachment means (23) capable of attaching the bag onto a firefighter's equipment;
- A quick connection means (Column 3, lines 15-17) affixable at the end of the rope;
- Means for aiding the rope in playing out from the bag properly (18);

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- Means capable of attaching (23) the bag to a firefighter's equipment; and
- Means for securing (18, 26) the rope within the bag.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2, 3, 9, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groover.

Groover discloses the claimed invention except a grommet affixed to the attachment hole (18). Official Notice is taken that it is well known to provide a grommet about an opening for reinforcement. It would have been obvious, if not already, to affix a grommet to the hole for reinforcement.

Regarding claim 3, the rope comprises a knot (26, 29) on either side of the hole.

Regarding claim 9, the quick connection means comprises a carabineer (Column 3, line 17).

11. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Green et al.

Price discloses a rope, but does not teach the rope comprised of flame-retardant material. However, Green teaches a flame retardant rope (Column 1, lines 26-27). It would have been obvious to use the flame retardant material as taught by Green on the rope of Price. Doing so would provide assurance against destruction during a fire emergency.

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12. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Dowe, Sr.

Price discloses a bag for retaining the rope, but does not teach the bag comprised of flame-retardant material. However, Dowe teaches a flame retardant bag (40) for retaining an emergency escape ladder. It would have been obvious to use the flame retardant material as taught by Dowe on the bag of Price. Doing so would provide assurance against destruction during a fire emergency.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cameron, Lindqvist, and Mosna et al. are cited for devices capable of conducting reconnoiter and rescue operations in a darkened or burning structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maerena W. Brevard whose telephone number is 703/305-0037. The examiner can normally be reached on M-Th; 8:00 AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703/308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703/872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/305-0037.

MB
Maerena Brevard
January 22, 2004 .

Gregory Vidovich
GREGORY VIDOVICH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700